

DEPARTMENT OF THE ARMY PERMIT

Permittee GENERAL PUBLIC

Permittee No. GENERAL PERMIT 97-01 (199721001)

Issuing Office OMAHA DISTRICT, CORPS OF ENGINEERS

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description:

This permit authorizes aquatic habitat restoration, enhancement, and creation activities in all waters of the U.S. within the State of Wyoming, except as noted herein.

Refer to Appendix A for detailed descriptions of authorized activities, including specific permit criteria.

Project Location:

Waters of the United States in Wyoming

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2007. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

(continued on page 4)

Special Conditions:

Refer to Appendix B for permit special conditions.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

(☐) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(☒) Section 404 of the Clean Water Act (33 U.S.C. 1344).

(☐) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

- e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

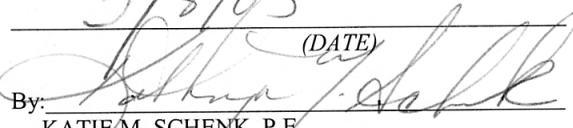
6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

DO NOT SIGN OR RETURN THIS FORM - REFER TO APPENDIX C FOR NOTIFICATION PROCEDURE.
(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

KURT F. UBBELOHDE
(DISTRICT ENGINEER)
Colonel, Corps of Engineers

5/8/03
(DATE)
By: 
KATIE M. SCHENK, P.E.
Chief, Regulatory Branch, Operations Division

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFeree)

(DATE)

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General Conditions (continued from page 2)

7. That equipment for handling, conveying and discharging materials during construction shall be operated to prevent dumping or spilling the materials into waters of the U.S. except as approved herein. Only those materials identified in the Project Description are authorized to be discharged.
8. That all dredged or excavated materials, with the exception of that authorized herein, will be placed on an upland site above the ordinary high water line in a confined area, not classified as a wetland, to prevent the return of such materials to the waterway.
9. That all construction debris (which includes excess dredge and/or fill materials, wood, cleared vegetation, concrete, and all other materials not specifically addressed in the permit) will be disposed of on land in such a manner that it cannot enter a waterway or wetland.
10. That all work in the waterway is performed in such a manner so as to minimize increases in suspended solids and turbidity, which may degrade water quality and damage aquatic life outside the immediate area of operation.
11. That the clearing of vegetation will be limited to that which is absolutely necessary for construction of the project.
12. That during construction, no petroleum products, chemicals, or other deleterious materials shall be allowed to enter or be disposed of in such a manner so that they could enter the water and that precautions be taken to prevent entry of these materials into the water.
13. That concrete trucks will be washed at a site and in such a manner that wash water cannot enter the waterway.
14. That only clean rock material from a nonstreambed source will be utilized for construction of project features that require the use of rock in order to avoid the percolation of fines, which would result in excessive local turbidity.
15. That when the District Engineer has been notified that a dredging or filling activity is adversely affecting fish or wildlife resources or the harvest thereof and the District Engineer subsequently directs remedial measures, the permittee will comply with such directions as may be received to suspend or modify the activity to the extent necessary to mitigate or eliminate the adverse effect as required.

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APPENDIX A

AUTHORIZED ACTIVITIES

This permit authorizes the following activities. Each activity may be constructed individually or in combination with another type of activity. All of the following activities must comply with criteria described below as well as all relevant terms and conditions listed in Appendix B.

1. Hydrologic Restoration and Management. The purpose of these activities is to restore, manipulate, or provide the hydrologic component of an aquatic ecosystem. These activities may include placement of fill in pits or ditches with no control structure to restore natural hydrology or installation of control structures to allow for management of the hydrologic regime. Water control structures such as screw gates, stop logs, flashboard risers, pipes with removable caps, and overflow wells provide water management capabilities which in turn provide the ability to control vegetation type and abundance, prevent disease, and increase habitat diversity.

(a) Filling of Pits or Ditches. The filling of pits or ditches (usually man-made) to restore the natural topography, as much as possible, to original contours or in a manner that will restore near natural hydrologic conditions. Fill material may consist of wetland soils from other authorized activities, soils that were sidecast during previous excavation activities at the site, or soils borrowed from upland locations.

(b) Water Control Structures. Structures installed in impoundments or ditches to allow for flexibility in water level management. Water control structures also include diversion structures installed adjacent to streams. Concrete, rock, wood, metal, fiberglass, polyethylene, and PVC materials are authorized materials to be used in the construction of such structures. Structures should be designed with the capability to completely drain impoundments.

(c) Water Supply Ditches. Excavation of ditches to provide water from sources off-site, usually associated with a water control structure. **Ditches cannot be constructed in a manner that would drain wetlands.**

2. Reservoir Construction. The purpose of these activities is to restore or create lacustrine habitat on streams, including secondary channels or former channels referred to as oxbows, or in wetland areas adjacent to streams that are typically dominated by monotypic vegetation stands of cattails or sedges. Projects should be designed to create primarily shallow water at depths of 2 meters (6.6 feet) or less but deeper water depths are desirable in some cases. The goal is to add diversity through a combination of emergent vegetation and open water habitat, generally at a ratio of sixty percent (60%) open water to forty percent (40%) emergent vegetation over the entire project area. Reservoirs can be created by impounding or containing water by construction of dams and dikes, or as a result of excavation activities in combination with dams or dikes. However, excavation activities alone that do not result in any discharge of fill material into waters of the U.S. do not require authorization.

(a) Dams. A dam is defined as the placement of fill to impound water on a stream channel, including side channels. Dams cannot exceed 20 feet in height measured at the centerline from the crest to the bottom of the stream channel. Top width of dams cannot exceed 12 feet. The base width must be limited to the minimum amount necessary to ensure slope stability, normally 3H:1V on the upstream side and 2H:1V on the downstream side.

(b) Dikes. A dike is defined as the placement of fill to contain water in areas adjacent to streams but dikes are located off-channel. Dikes cannot exceed 20 feet in height measured at the centerline. Top width of dikes cannot exceed 12 feet. The base width must be limited to the minimum amount necessary to ensure slope stability, normally 3H:1V on the upstream side and 2H:1V on the downstream side.

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APPENDIX A
AUTHORIZED ACTIVITIES (continued)

2. Reservoir Construction. (continued)

(c) Excavation. Redistribution of material with the use of machinery to create or deepen open water areas. Reservoir excavation should create side slopes of 6H:1V or flatter, over at least fifty percent (50%) of the perimeter to encourage the development of emergent vegetation. Level ditches must be constructed with a maximum top width of fifty (50) feet and with side slopes of 1H:1V or flatter. Side slopes that include a shallow shelf less than 2 feet below the water surface and greater than 5 feet in width are recommended. Ditch construction should be arranged in a meandering pattern to provide optimum edge habitat. **Level ditches cannot be constructed in a manner that would drain wetlands.**

(d) Blasting. Random redistribution of material with the use of explosives for the purpose of creating open water areas, also known as potholes, by exposing ground water.

(e) Liners. Installation of plastic, bentonite, or other materials to seal a reservoir and prevent excessive infiltration of water from the reservoir into the ground.

3. Island Construction. The purpose of these activities is to create land areas in existing or proposed reservoirs. Islands provide nesting, loafing, and feeding habitat for waterfowl and migratory shore birds and also provide some protection against predators. Islands can be constructed by placement of fill or by excavation in connection with filling activities.

(a) Filling. Placement of fill to create land areas in a waterbody. Islands in existing lakes and ponds must be constructed in accordance with the "Guidelines for Planning Waterfowl Nesting Islands in the Mountain-Prairie Region, January 1993," published by the U.S. Fish and Wildlife Service (FWS), Region 6. Island construction must also be accomplished in accordance with additional limitations summarized below:

(i) Island construction is authorized only in open water areas three (3) feet or more in depth which are classified as semi-permanently flooded or wetter under the Cowardin classification system ("Classification of Wetlands and Deepwater Habitats of the United States," Cowardin, et.al., FWS, Biological Services Program, FWS/OBS-79/31, December 1979). This includes areas classified as Lacustrine, Palustrine Unconsolidated Bottom, or Palustrine Aquatic Bed as shown on National Wetland Inventory (NWI) maps developed by the FWS.

(ii) The maximum surface area above the ordinary high water elevation of the water body cannot exceed 0.25 acre per island. The combined surface area of islands within a waterbody cannot exceed 40 percent (40%) of the total surface area of the waterbody.

(b) Excavation - Redistribution of material on peninsulas that extend from shore into waterbodies to create isolated land areas. Islands created by this method shall be subject to the same design limitations as described above with the following exception:

(i) Side slopes of excavated channels must be 1H:1V or flatter.

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APPENDIX B

SPECIAL CONDITIONS

1. Notification: All prospective permittees must submit a Notice of Intent to the U.S. Army Corps of Engineers in accordance with the Notification Procedure described in Appendix C prior to initiating any activities that include discharges of dredged or fill material into waters of the United States as described in Appendix A. The permittee shall not undertake any such activities until the Corps provides written verification that proposed activities are authorized by GP 97-01. The Corps may withhold verification if it is determined that a standard (individual) Department of the Army permit is required in accordance with 33 CFR 325.2(e)(2).

2. Maximum Filled Area (Single Project): The maximum area of fill, both temporary and permanent, within waters of the U.S., including wetlands, is limited to one (1) acre for a single project. In general, a single project is defined as all activities undertaken in accordance with this permit by a single landowner. Landowners can be individuals, entities, or federal and state agencies undertaking activities on lands managed or owned by the agency. However, the Corps reserves the right to define a single project for purposes of this permit on a case-by-case basis.

3. Palustrine Scrub-Shrub and Forested Wetlands: This permit is not intended to allow the conversion of palustrine scrub-shrub (PSS) or palustrine forested wetlands (PFO) into other aquatic habitats and those areas must be avoided to the maximum extent possible. Therefore, no activity is authorized that would require filling more than 0.10 acre of PSS and PFO wetland combined. Furthermore, the Corps reserves the right to deny use of this permit for any discharge if a project would have unacceptable adverse impacts on PSS and PFO wetlands due to inundation or excavation associated with the discharge.

4. Organic Soils. No discharge is authorized in wetland areas with an organic soil layer (peat) in excess of 8 inches (i.e. Histic epipedon) unless the activities purpose is restoration of hydrology.

5. Springs: No discharge of fill material is authorized within 100 feet of the source in natural spring areas. For purposes of this condition, a spring source is defined as any location where there is natural artesian flow emanating from a distinct point at any time during the growing season. Springs do not include seeps and other groundwater discharge areas where there is no distinct point source.

6. Mitigation. Projects must be designed to create additional wetland areas as compensation for wetlands converted to uplands when the total conversion exceeds 0.05 acre. This requirement does not apply if a filling activity results in restoration of wetlands within the area filled, such as the filling of a drainage ditch. Mitigation must be accomplished by incorporating special treatments for wetland creation both on-site and in-kind at a minimum replacement ratio of 1:1. For example, excavation adjacent to a reservoir at the normal high water elevation to create a flat saturated area where wetland topsoil could be placed that has been salvaged from areas to be filled. In those cases, excavation of the mitigation area could possibly serve a dual purpose by providing a source of fill material. However, wetlands that develop solely from inundation of uplands cannot be counted as compensation for wetlands that are filled as explained below.

Wetland areas inundated by a reservoir will normally be mitigated by natural succession of wetlands within shallow water zones and adjacent to the normal high water line. Therefore, no compensatory mitigation is required for wetland areas that are inundated but all wetlands created as a result of inundation must be credited towards replacement of wetlands lost due to inundation (i.e. no mitigation banking for natural succession). Additional compensatory mitigation may be required on an individual project basis for conversion of wetlands into deep water (greater than 2 meters). In addition, the permittee may be required to submit annual monitoring reports until the Corps determines that mitigation has been successful if the mitigation design is problematic for reasons such as long term maintenance of a water supply. In order to avoid monitoring requirements, mitigation areas should be specifically designed and constructed to create wetlands that function independently.

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APPENDIX B
SPECIAL CONDITIONS (continued)

7. Water Quality: In accordance with authority granted under Section 401 of the Clean Water Act (see 33 CFR Part 330.4(c)), The Wyoming Department of Environmental Quality (WDEQ) has denied blank water quality certification for this permit in all waters of the State of Wyoming outside the Wind River Indian Reservation. The U.S. Environmental Protection Agency (EPA) has also denied blanket water quality certification for this permit on tribal lands within the boundaries of the Wind River Indian Reservation. However, the WDEQ and EPA have agreed to evaluate individual projects to determine if certification can be issued. **Therefore, this permit is not valid without project specific water quality certification from the WDEQ or the EPA.** Permittees must comply with all conditions established by the WDEQ or EPA if certification is issued.

8. Historic Properties: No discharge is authorized that would adversely affect sites included in the most current listing of the National Register of Historic Places or sites known to be eligible for such listing, sites included in the National Register of Natural Landmarks, or any other known historic, cultural, or archaeological sites until the District Engineer has complied with the provisions of 33 CFR Part 325, Appendix C pursuant the National Historic Preservation Act of 1966.

9. Threatened and Endangered Species: No discharge is authorized that is likely to jeopardize the continued existence of threatened or endangered species or that will result in the destruction or adverse modification of designated or proposed critical habitat for threatened and endangered species pursuant to the Endangered Species Act (ESA) of 1973, as amended. The Corps will be responsible for consultation with the USFWS in accordance with Section 7 of the ESA when appropriate. Permittee's must comply with any special terms and conditions adopted by the Corps during consultation that are necessary to avoid or reduce potential adverse affects on threatened and endangered species, or critical habitat.

10. Tribal Rights: No discharge is authorized that would impair reserved tribal rights; including, but not limited to, water, fishing, and hunting rights.

11. Erosion and Siltation Controls: Appropriate erosion and siltation controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized prior to completion of construction.

12. Equipment. Heavy equipment working in wetlands outside of the project area must be placed on mats, or other measures must be taken to prevent unnecessary soil disturbance.

13. Suitable Material: No discharge may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts as required by Section 307 of the Clean Water Act.

14. Water Supply Intakes: No discharge may occur in the proximity of a public water supply intake

15. Wild and Scenic Rivers: No discharge may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate federal agency, with direct management responsibility for such river, has determined in writing that the proposed discharge will not adversely effect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service.)

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APPENDIX B
SPECIAL CONDITIONS (continued)

16. Spawning Areas: No discharge can occur in spawning areas during the spawning season of aquatic life indigenous to the waterbody. General spawning seasons for common fish species in Wyoming are listed below:

Rainbow and Cutthroat Trout -	March 15 through July 31
Brown and Brook Trout -	September 15 through November 30

Permittees are encouraged to obtain site specific information on spawning areas and seasons from Fisheries Supervisors in Wyoming Game and Fish Department Regional Offices.

17. Adverse Effects From Impoundments: If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of flow shall be minimized to the maximum extent practicable. The permittee may be required to undertake corrective measures if any adverse effects are manifested after project completion.

18. Proper Maintenance: Any project authorized, particularly impoundments, must be properly maintained, including maintenance necessary to ensure public safety. Maintenance does not include dredging activities that result in a discharge.

19. Stockpiling: Storage of excess soil or unwanted vegetation in wetland areas can be authorized on a temporary basis only, not to exceed the duration of construction. Stockpiling of materials is not allowed in flowing or standing water.

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APPENDIX C

NOTIFICATION PROCEDURE

A "Notice of Intent" (NOI) must be submitted to the Corps prior to initiating any activities that include discharges of dredged or fill material into waters of the United States as described in Appendix A. All NOI's must contain sufficient information for the Corps to determine if a project complies with the terms and conditions of GP 97-01. At a minimum, all NOI's must contain the information described in items 1-7 below.

In addition, the Corps has agreed to coordinate with the Wyoming Game and Fish Department (WGFD) or the U.S. Fish and Wildlife Service (USFWS) prior to verifying that a project is authorized under GP 97-01. Therefore, the Corps recommends that landowners or their designated agent contact the Wildlife Management Coordinator and Aquatic Habitat Coordinator in the nearest WGFD Regional Office to obtain site specific information and recommendations regarding state sensitive terrestrial and aquatic wildlife species. Landowners are also encouraged to contact the USFWS for recommendations on wetland creation, restoration, enhancement and protection strategies that benefit wildlife. However, the Corps will conduct consultation with the USFWS in accordance with Section 7 of the Endangered Species Act when appropriate. Correspondence from the WGFD and the USFWS documenting coordination efforts should be provided with the NOI and recommendations provided by those agencies should be incorporated into the project design to the maximum extent practicable to avoid potential delays in processing the NOI. Otherwise, the Corps will coordinate with the WGFD and the USFWS after receipt of the NOI to determine if modifications in the project location or design are warranted.

The Corps will forward a copy of the NOI to the Wyoming Department of Environmental Quality (WDEQ), or to the U.S. Environmental Protection Agency (USEPA) for activities on Tribal Lands, and request water quality certification in accordance with Section 401 of the Clean Water Act. The WDEQ or USEPA may request more detailed information if necessary to ensure compliance with GP 97-01 and applicable water quality standards. The Corps will not issue a written verification until certification has been issued by the WDEQ or the USEPA.

1. Landowner: Name, mailing address, and telephone number of the person or entity that owns the property on which the project is located.

2. Adjacent Landowners: Name, address, and telephone number of the person or entity that owns the adjacent property (i.e. shared property boundary) both upstream and downstream of the landowner's property along with written documentation that each has been notified about the proposed project and advised that comments can be provided to the Corps at the address listed below.

3. Cooperating Agencies: Name, address, and telephone number of any federal, state, or local agency that is providing a source of public funding for the project or a statement that no public sources of funding are involved. The amount of funding does not need to be disclosed. Likewise, no sources of private funding or amounts need to be disclosed.

4. Project Location: A legal description of the project location, including borrow and disposal sites, by quarter, section, township, and range. An enlarged copy of the appropriate portion of the U.S. Geological Survey topographic map for the area is the preferred method of specifying location information.

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APPENDIX C
NOTIFICATION PROCEDURE (continued)

5. Project Design and Construction Criteria: A complete written description of all project features including (a) height of dams and dikes; (b) maximum water depth, total surface area, and total storage volume of reservoirs; (c) source and volume of fill material; (d) area of wetland filled due to dam, dike, or island construction; (e) area of wetland inundated and/or excavated within reservoirs; (f) type of construction equipment to be used; and (g) total area of surface disturbance, including uplands.

6. Project Drawings: Drawings of the project on 11"x17" or smaller paper. Drawings must include (a) baseline wetland delineation map showing existing water features and wetland boundaries for the entire project area without any project features; (b) plan view of the entire project area showing dimensions of all project features, including wetland areas that would be filled, excavated, and/or inundated and mitigation area boundaries; (c) typical cross-section of dams or dikes; and (d) typical cross-section of mitigation areas.

7. Wetland Delineation: A routine wetland delineation for the entire project area, including all areas that would be filled, inundated and/or excavated. Delineations must be completed by qualified individuals in accordance with the *U.S. Army Corps of Engineers Wetland Delineation Manual* dated January 1987, including all supplements to the manual. Delineation maps must show boundaries all areas that meet the definition of wetland and all other water features such as ditches, streams, ponds, and lakes. Color photographs of the project area, especially typical wetland/upland boundaries, should be provided whenever possible to facilitate the Corps review. Otherwise, processing may be suspended pending an on-site evaluation by the Corps. Applicants are encouraged to submit delineation results in advance and request a jurisdictional determination from the Corps because some areas that exhibit wetland characteristics may not be classified as waters of the U.S.

The NOI must be submitted to the Corps at the following address prior to initiating any activities that include discharges of dredged or fill material into waters of the U.S. as described in Appendix A.

U.S. Army Corps of Engineers
Wyoming Regulatory Office
2232 Dell Range Blvd., Suite 210
Cheyenne, Wyoming 82009-4942